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OFFICE OF PETITIONS

In re Application of :
Bjarne Nilsen :
Application No. 10/625,995 : DECISION REFUSING STATUS
Filed: July 24, 2003 : UNDER 37 CFR 1.47(b)
For: METHOD OF CLEANING SURFACES IN :
CONTACT WITH A FLUID FLOW :

This is in response to the petition under 37 CFR 1.47, filed June 25, 2004, which is being treated under 37 CFR 1.47(b).

The petition is dismissed

Any request for reconsideration must be submitted within TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Extension of time under 37 CFR 1.136(a) are permitted. Any reply should be entitled "Renewed Petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b)" and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the inventor. This is **not** a final agency action within the meaning of 5 U.S.C. § 705.

A review of the file indicates that the Office received the required surcharge (\$130). However, there is no indication that petitioner has submitted an oath or declaration in reply to the Notice to Filing Missing Parts of Nonprovisional Application (Notice) mailed April 20, 2004. Therefore, this application became abandoned for failure to timely submit a reply to the Notice on or before June 20, 2004.

Petitioner may wish to consider filing a petition to revive under either 37 CFR 1.137(a) or 137(b). The filing of a petition under the unavoidable or unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unavoidable or unintentional delay cannot make a statement that the delay was unavoidable or unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(a) or (b) was unavoidable or unintentional. A statement that the delay was unavoidable or unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(a) or (b).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor

cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (2) and (6) set forth above.

As to item (2), petitioner has not provided an oath or declaration in response to the Notice mailed April 20, 2004. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicant on behalf of Bjarne Nilsen is REQUIRED. See MPEP 409.03(b).

As to item (6), Rule 47 applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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 Post Office Box 1450
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By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (703) 872-9306
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.



Frances Hicks

Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy